

AMENDED CLD-149

NOT PRECEDENTIAL

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 13-1301

UNITED STATES OF AMERICA

v.

ARTHUR D'AMARIO III, Appellant

On Appeal from the United States District Court
for the District of New Jersey
(D.C. Criminal No. 06-cr-00112-001)
District Judge: Honorable Paul S. Diamond

Submitted for Possible Summary Action
Pursuant to Third Circuit LAR 27.4 and I.O.P. 10.6
March 8, 2013

Before: RENDELL, JORDAN and VAN ANTWERPEN, Circuit Judges

(Opinion filed: May 6, 2013)

OPINION

PER CURIAM

Arthur D'Amario appeals the District Court's order denying his motions for a modification of his supervised release and for investigative services. For the reasons below, we will summarily affirm the District Court's order.

D'Amario is serving three years of supervised release after completing a sentence of 84 months in prison for threatening a federal judge. See United States v. D'Amario, 330 F. App'x 409 (3d Cir. 2009). In September 2012, he filed a counseled motion pursuant to 18 U.S.C. § 3605 seeking to have his supervision transferred to the District of Rhode Island. The District Court denied the motion because the District of Rhode Island did not concur in the request. D'Amario filed a pro se notice of appeal, and we affirmed the District Court's order in an opinion dated February 13, 2013. See C.A. No. 12-3763.

D'Amario filed in the District Court a motion to proceed pro se and for a modification of his supervised release conditions as well as a motion for investigative services. The District Court granted the motion to proceed pro se and denied the other motions. D'Amario filed a notice of appeal as well as motions for summary action and to consolidate the appeal with his prior appeal docketed at No. 12-3763.

D'Amario's motion to modify his conditions of supervised release was duplicative of the counseled motion that the District Court had already denied and we addressed in C.A. No. 12-3763. In his motion to consolidate the appeals, D'Amario admits that both appeals raise the same issue. In his motion for investigative services, he requested discovery to challenge a Rhode Island conviction from many years ago. A motion in this criminal case is not the appropriate way to raise such a claim. Summary action is appropriate if there is no substantial question presented in the appeal. See Third Circuit LAR 27.4. Because the appeal presents no substantial question, we will summarily

affirm the District Court's order. See Third Circuit I.O.P. 10.6. D'Amario's motions for summary action, to consolidate the appeal, and for release are denied. The Government's motion to dismiss is denied.